REMARKS

This paper is responsive to the Office Action dated August 13, 2003. Claims 7-9 are pending.

Rejection for Obviousness-type Double Patenting:

The Examiner rejected claims 7 and 8 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 6 and 7 of copending Application No. 09/775,262. Applicant respectfully traverses this rejection and will address the merits of this rejection when allowable subject matter is indicated.

Claim Rejection Under 35 U.S.C. § 103

In the Office Action, the Examiner rejected claims 4,7 and 8 under 35 U.S.C. 103(a) as being unpatentable over Duffin et al. (U.S. 5,752,976) in view of Bradbury et al. (2002/0007294A1). Applicants respectfully traverse the rejection.

Applicants respectfully point out that the Published Application of Bradbury et al. is not prior art to the instant application under section 102(e)/103. Bradbury et al. was filed on April 5, 2001, and claims priority to a provisional patent application filed on April 5, 2000. However, the instant application was filed on February 1, 2001, and claims priority to a provisional application, Serial No. 60/180,289 which was filed on February 4, 2000. The priority date of the instant application precedes the priority date of the Bradbury et al. application. Therefore, Bradbury et al. is not prior art and any rejection under 35 U.S.C. 103 that relies upon Bradbury et al. must fail.

In view of the disqualification of the Bradbury et al. reference as prior art, Applicants respectfully request withdrawal of the rejection under section 103. Applicants in no way acquiesce, however, in the propriety of the Examiner's citation of Bradbury et al. or Duffin et al. on the merits. In particular, notwithstanding the ineligibility of Bradbury et al. as prior art, Applicants maintain that neither Duffin et al. nor Bradbury et al. provides any teaching that would have suggested the claimed invention.

The Applicants also respectfully point out that the Examiner has rejected claims 7 and 8 under a Double Patenting theory in paragraph 3 of the Office Action. The Examiner also has rejected claims 4, 7, and 8 as discussed above. Because the Examiner has stated no grounds for a rejection of claim 9 in the most recent Office Action, the Applicants can only assume that the invention as recited within claim 9 is patentable over the prior art of record.

CONCLUSION

All claims in this application are in condition for allowance. Applicant respectfully requests reconsideration and prompt allowance of all pending claims. The Examiner is invited to telephone the below-signed attorney to discuss this application.

Respectfully submitted,

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